

10/776,564

REMARKS

The present response is submitted in response to the Office Action of June 6, 2005. The Applicant respectfully requests that the Examiner enter the requested amendments and following remarks upon reconsideration of this Application.

The drawings are amended, per the attached Submission, to overcome a few noted informalities contained therein and show the recited features of claim 12. The new Replacement Sheets of formal drawings, accompany this Submission, incorporate all of the requested drawing amendments. In the Fig. 2, a fixed spindle nut 15 and a spindle 16 which can be rotated relative thereto is now shown. It is respectfully submits that original claim 6, for example, provides support for such this new drawing and thus no new matter is entered by the same. If any further amendment to the drawings is believed necessary, the Examiner is invited to contact the undersigned representative of the Applicant to discuss the same.

Claim 9 is rejected then under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons noted in the official action. Rejected claim 9 is accordingly amended, by the above claim amendments, and all of the presently pending claims are now believed to particularly point out and distinctly claim the subject matter regarded as the invention, thereby overcoming all of the raised § 112, second paragraph, rejections. The entered claim amendments are directed solely at overcoming the raised indefiniteness rejection(s) and are not directed at distinguishing the present invention from the art of record in this case.

Next, claims 7 and 9-12 are rejected, under 35 U.S.C. § 102(e), as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kirkwood et al. '918. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

As noted by the Examiner, the priority date of the present Application predates the filing date of applied Kirkwood et al. '918. In view of this, the Applicant encloses an English translation of the underlying priority application, namely, DE 103 07 019.2 filed February 20, 2003. Upon reviewing the same, the Examiner will note that the enclosed English translation is

identical to currently pending specification and thus all of the subject matter of the above identified application is entitled to the February 20, 2003 priority date. In light of the above and enclosed English translation, it is respectfully submitted that Kirkwood et al. '918 is no longer effective prior art with respect to the above identified application and the raised rejections in view of that citation should be withdrawn at this time.

Claims 7 and 10-12 are then rejected, under 35 U.S.C. § 103(a) as being unpatentable over Sakakibara et al. '236. The Applicant acknowledges and respectfully traverses the raised anticipatory rejection in view of the following remarks.

It is respectfully submitted that Sakakibara et al. '236, as shown in Fig. 6 of that reference, relates to a DC motor 47 which is supported or situated outside of the transfer case 13 and not located within the housing of the power transmission device, as presently recited. Independent claim 7 is now amended to include limitation of the electric motor (9) is an asynchronous induction motor which is accommodated within the transfer case (1). This limitation is incorporated, by dependency, into dependent claims 8-12. According to this claimed arrangement, the presently claimed invention has the advantage that the incorporation of the motor 9 totally inside the transfer case housing results in an extremely compact and space-saving design for the transfer case 1, as more fully described in paragraph 034 of the specification, for example.

In addition, new independent claim 13 recites the features of "the electric motor (9) is completely accommodated within a housing of the transfer case (1)" while new independent claim 14 recites the features of "the electric motor (9) is completely accommodated within a housing of the transfer case (1) and the electric motor (9) controls operation of a gear wheel (7) which facilitates transfer of a portion of a driving torque from the drive shaft (2) to the second output shaft (4)". Such features are believed to further distinguish the presently claimed invention from the applied art.

In view of the forgoing amendments and remarks, the Applicant respectfully submits that claims 7 and 10-12 are now fully and patentably distinguished over and from the teachings

10/776,564

and suggestions of Sakakibara et al. '236, under the requirements and provisions of 35 U.S.C. § 103(a), for the reasons discussed above. The Applicant therefore respectfully requests that the Examiner reconsider and withdraw all rejections of claims 7 and 10-12, and allow the claims as amended herein above.

Claims 7-12 are also rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-15 of copending Application Serial No. 10/776,567. The Applicant acknowledges and respectfully traverses the raised double patenting rejection in view of the following remarks.

Attached hereto is a Terminal Disclaimer which is signed by the Applicant's Representative and accompanied by the necessary official fee. This Terminal Disclaimer is believed to address and overcome the raised double patenting rejection.

In view of the above amendments and remarks, it is respectfully submitted that all of the raised rejection(s) should be withdrawn at this time. If the Examiner disagrees with the Applicant's view concerning the withdrawal of the outstanding rejection(s) or applicability of the Kirkwood et al. '391 and/or Sakakibara et al. '236 references, the Applicant respectfully requests the Examiner to indicate the specific passage or passages, or the drawing or drawings, which contain the necessary teaching, suggestion and/or disclosure required by case law. As such teaching, suggestion and/or disclosure is not present in the applied references, the raised rejection should be withdrawn at this time. Alternatively, if the Examiner is relying on his/her expertise in this field, the Applicant respectfully requests the Examiner to enter an affidavit substantiating the Examiner's position so that suitable contradictory evidence can be entered in this case by the Applicant.

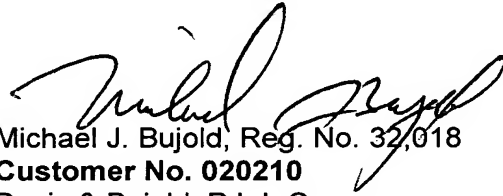
In view of the foregoing, it is respectfully submitted that the raised rejection(s) should be withdrawn and this application is now placed in a condition for allowance. Action to that end, in the form of an early Notice of Allowance, is courteously solicited by the Applicant at this time.

10/776,564

The Applicant respectfully requests that any outstanding objection(s) or requirement(s), as to the form of this application, be held in abeyance until allowable subject matter is indicated for this case.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Michael J. Bujold, Reg. No. 32,018
Customer No. 020210
Davis & Bujold, P.L.L.C.
Fourth Floor
500 North Commercial Street
Manchester NH 03101-1151
Telephone 603-624-9220
Facsimile 603-624-9229
E-mail: patent@davisandbujold.com

Annotated Marked-Up Drawing

~~1/1~~

delete ARROWS

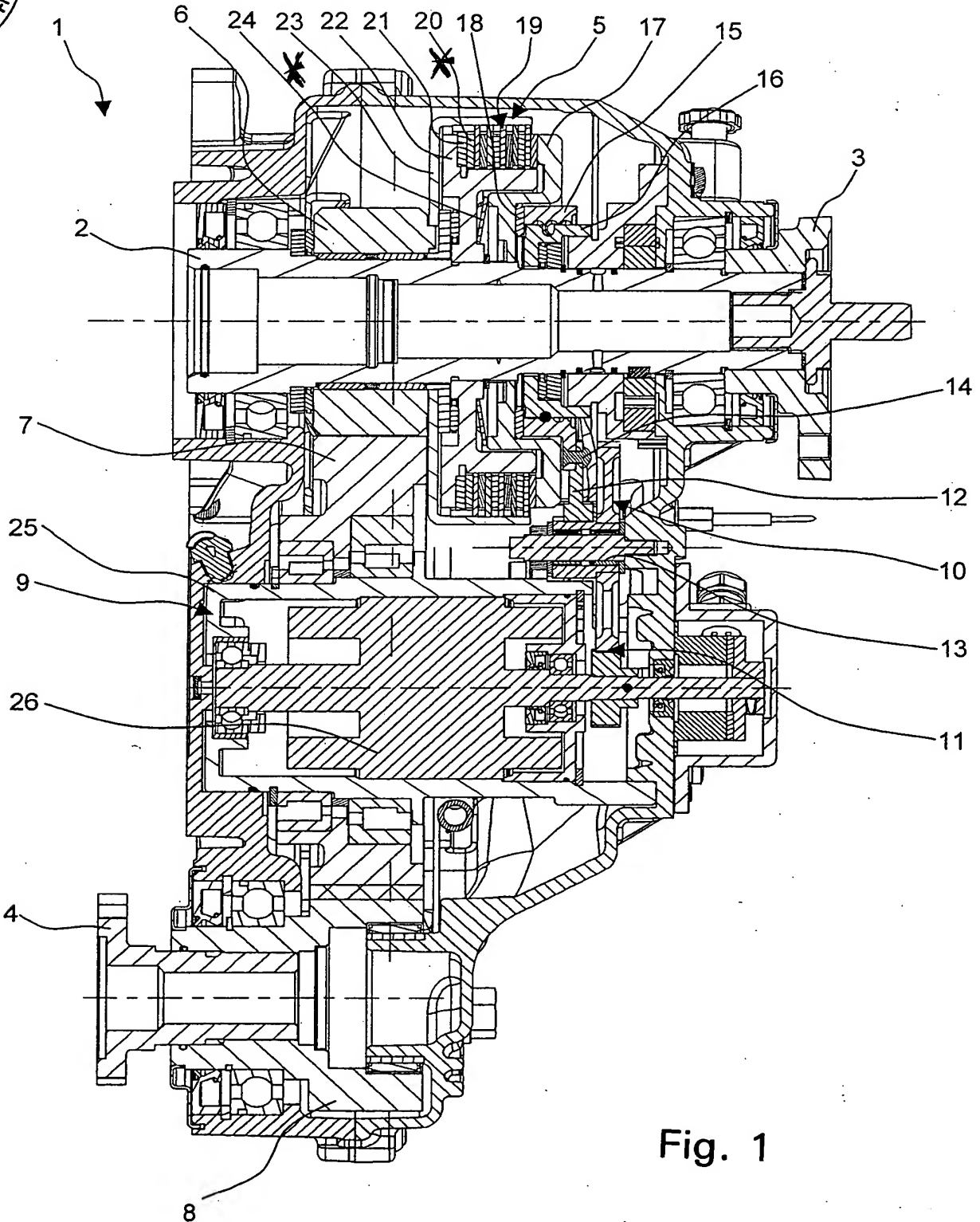


Fig. 1



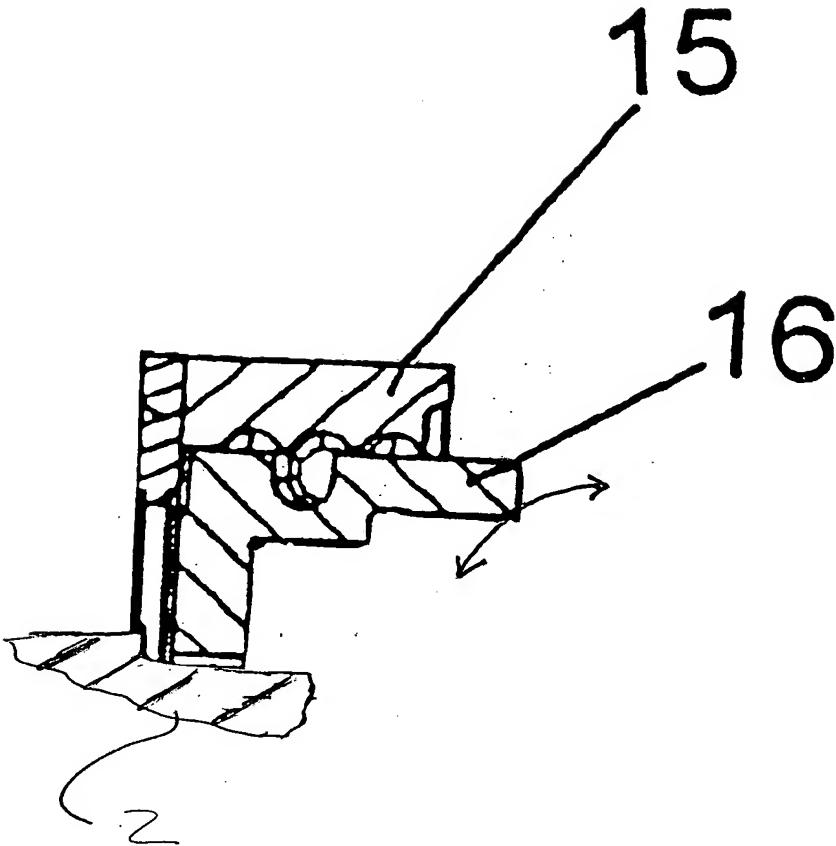


Fig. 2